

California Regional Water Quality Control Board
Santa Ana Region

Update To The
NOVEMBER 21, 2003

AGENDA

Please note the following changes to the Agenda:

Item No.:

- 9 **Waste Discharge Requirements, Bruce Hohn/AVMGH II Limited Partnership, Temescal Creek Remediation Project/Inert Waste Disposal, Corona, Riverside County** — This item has been postponed.
- 11 **Report of Hearing Panel to Full Board, Kaiser Resources** — The Panel Hearing in this matter was postponed; therefore, this item has been removed from the agenda.
- 12 **Public Workshop, Basin Plan Amendment, Related to Nitrogen and Total Dissolved Solids Management in the Santa Ana Region** — Documentation for this item may be viewed on our website.
- 13 **Administrative Civil Liability Complaint, Pyro Spectaculars, Inc., San Bernardino County** — The hearing on the ACL Complaint has been removed from the agenda
- 14 **Mandatory Penalties Complaint, USA Gasoline Corporation, San Bernardino County** — This item has been postponed.
- 15 **Mandatory Penalties Complaint, Ross Pallets, Inc., Orange County** — Discharger has waived the right to a hearing.
- 16 **Mandatory Penalties Complaint, Pilkington Aerospace, Inc., Orange County** — Discharger has waived the right to a hearing.
- 17 **Administrative Civil Liability Complaint, Consolidated Container Co., Orange County** — Discharger has waived the right to a hearing.

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
November 21, 2003

ITEM: 14

SUBJECT: Mandatory Penalty Complaint No. R8-2003-0093 for USA Gasoline Corporation, Station #239, Big Bear Lake – Order No. R8-2003-0112

BACKGROUND

On September 2, 2003, the Executive Officer issued Mandatory Penalty Complaint (MPC) No. R8-2003-0093 to USA Gasoline Corporation (USA) for alleged violations of the General Groundwater Cleanup Permit, Order No. R8-2002-0007, (General Permit). In the MPC (attached), the Executive Officer proposed an assessment of \$24,000 for the alleged violations.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is to consider adoption of Order No. R8-2003-0112, which affirms MPC No. R8-2003-0093. MPC No. R8-2003-0093 was issued by the Executive Officer to USA for violations of the General Permit for which the Board must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).

DISCUSSION

USA currently operates a gasoline service station at 41339 Big Bear Boulevard in the City of Big Bear Lake. Groundwater beneath the site is contaminated from underground storage tank related leaks and a groundwater treatment system treats and discharges groundwater from the site.

On July 16, 2002, USA was authorized to discharge treated water from its groundwater cleanup system under the General Permit in accordance with Monitoring and Reporting Program No. 2002-0007-91. The General Permit regulates the discharge of treated groundwater from petroleum-contaminated sites and contains effluent limits for a number of constituents, including daily maximum limits for tertiary butyl alcohol (TBA) and dichlorobromomethane. TBA and dichlorobromomethane are Group II pollutants as specified in Appendix A to Section 123.45 of Title 40 CFR.

USA submitted self-monitoring reports, which indicated effluent limit violations for TBA and dichlorobromomethane. These reports indicate that USA had a total of eight violations between July 2002 and January 2003. Six of these violations were considered serious, while the other two were chronic.

In accordance with Water Code Section 13385(h) and (i), all eight of these violations are subject to mandatory minimum penalties of \$3,000 each. Complaint No. R8-2003-0093 includes an assessment of \$24,000 for these eight violations.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalty complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board affirm MPC No. R8-2003-0093 by adopting Order No. R8-2003-0112.

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

In the matter of:)	Order No. R8-2003-0112
)	for
USA Gasoline Corporation)	Mandatory Minimum Penalties
30101 Agoura Court, Suite 200)	
Agoura Hills, CA 91301)	
)	
<u>Attn: Chuck Miller</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on November 21, 2003 to receive testimony and take evidence on the allegations contained in Complaint No. R8-2003-0093, dated September 2, 2003, and on the recommendation for the imposition of mandatory penalties pursuant to Water Code Section 13385 in the amount of \$24,000. The Board finds as follows:

1. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. R8-2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of groundwater polluted by petroleum hydrocarbons and/or solvents within the Santa Ana Region. The Permit contains effluent limits for a number of constituents, including tertiary butyl alcohol (TBA) and dichlorobromomethane. On July 16, 2002, the Executive Officer enrolled USA Gasoline Corporation (USA) under General Permit NPDES No. CAG918001, authorizing it to discharge treated groundwater from USA Station #239, located at 41339 Big Bear Boulevard in the City of Big Bear Lake. The discharge from USA's system went into a storm drain, then to Big Bear Lake, a water of the United States. USA was required to monitor the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-91.
2. USA submitted self-monitoring reports, which indicate that it had a total of eight violations between July 2002 and January 2003. Six of these violations were serious and the other two were chronic. All eight violations are subject to mandatory minimum penalty.
3. Water Code Sections 13385(h) and (i) require the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or chronic violation.
4. In accordance with Water Code Section 13385(h), the total mandatory minimum penalty for the eight effluent limitation violations cited in Section 2, above, is \$24,000.
5. On September 2, 2003, the Executive Officer issued Complaint No. R8-2003-0093 to USA proposing that the Board impose the mandatory minimum penalty of \$24,000 on USA for the violations cited above.

6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 2100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, mandatory penalties be imposed on USA Gasoline Corporation in the amount of \$24,000, as proposed in Complaint No. R8-2003-0093 for the violations cited, payable as set forth below.

1. USA Gasoline Corporation may fulfill its obligation under this Complaint by proceeding according to either (a) or (b) below:
 - (a) USA shall notify the Executive Officer in writing by December 5, 2003 that it has elected to participate in a Supplemental Environmental Project (SEP). By December 22, 2003, USA shall provide payment for the SEP, as approved by the Executive Officer, to the Regional Board office, and any balance shall be paid by a check or money order made out to "State Water Resources Control Board"; or
 - (b) USA shall pay the entire \$24,000 to the State Water Resources Control Board by December 22, 2003.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on November 21, 2003.

Gerard J. Thibeault
Executive Officer

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION**

IN THE MATTER OF:)	Complaint No. R8-2003-0093
)	for
USA Gasoline Corporation)	Mandatory Penalties
30101 Agoura Court)	
Suite 200)	
Agoura Hills, CA 91301)	
Attention: Chuck Miller)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. USA Gasoline Corporation (USA) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (Board) must impose mandatory penalties pursuant to California Water Code (Water Code) Section 13385(h) and (i).
2. A hearing concerning this Complaint is scheduled for the Board's regular meeting on October 3, 2003. USA or its representatives will have an opportunity to appear and be heard, and to contest the allegations in this complaint and the imposition of mandatory penalties by the Board. An agenda announcement and the staff report related to this Complaint will be mailed to you not less than 10 days prior to the hearing date.
3. If the hearing is necessary, the Board will consider whether to affirm, reject or modify the proposed mandatory penalty or whether to refer this matter to the Attorney General for recovery of judicial civil liability.
4. This complaint is based on the following facts:
 - a) USA currently operates a service station at 41399 Big Bear Boulevard, in the City of Big Bear. A groundwater treatment system treats and discharges groundwater to remediate the effects of an underground storage tank release at the site. On January 23, 2002, the Board adopted Waste Discharge Requirements, Order No. 2002-0007 (NPDES No. CAG918001), General Groundwater Cleanup Permit (Permit). The Permit regulates discharges of extracted and treated groundwater resulting from the cleanup of petroleum hydrocarbons and/or solvents within the Santa Ana Region by establishing effluent limits for a number of constituents, including dichlorobromomethane and tertiary butyl alcohol (TBA).
 - b) On July 16, 2002, USA was authorized to discharge treated groundwater resulting from its groundwater treatment system and was required to monitor

the discharge in accordance with Monitoring and Reporting Program No. 2002-0007-091.

- c) USA submitted self-monitoring reports, which show effluent limit violations for dichlorobromomethane and tertiary butyl alcohol. These violations are summarized on Attachment "A", included as Page 4 of this complaint.
5. Water Code Section 13385(h) and (i) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious and/or other specific types of violations.
 6. As shown in Attachment "A", USA had a total of eight violations between July 2002 and January 2003. Six of these violations are considered serious and two of the violations are chronic and all eight violations are subject to mandatory minimum penalty.
 7. In accordance with Water Code Section 13385(h), the mandatory minimum penalty for the eight effluent violations cited in Section 6, above, is \$24,000.
 8. In addition, the Board may also assess administrative civil liability of \$10,000 per day for each day of violation and \$10 per gallon for each gallon discharged in excess of 1,000 gallons in accordance with Water Code Section 13385(c). The maximum administrative civil liability that may be imposed for these violations is \$86,690 (\$50,000 for five days of violation and \$36,690 based on $4,699 - 1,000 = 3,699$ gallons @ \$10 per gallon).
 9. After consideration of the facts, the Executive Officer proposes that mandatory minimum penalties of \$24,000 be imposed on USA Gasoline Corporation, by the Board, for the violations cited above.
 10. You may waive your right to a hearing. If you wish to waive this right, please sign the attached waiver form and return it, along with a check for \$24,000, made payable to the State Water Resources Control Board, and the bottom portion of the invoice, to Sacramento in the enclosed envelope.

If you have any questions regarding this complaint, please contact Ken Williams at (909) 782-4496, or Valerie Jahn at (909) 782-4903, or the Board's legal counsel, Jorge Leon, at (916) 341-5180.

9/2/03
Date

K. J. Thibeault
for Gerard J. Thibeault
Executive Officer

ATTACHMENT "A"

**TABLE 1A.
EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL ALCOHOL**

VIOULATION DATE	DISCHARGE FLOW Gallons Per Day	EFFLUENT LIMIT* Daily Maximum in µg/l	DISCHARGE (µg/l)
8/3/02	1,104	18.6	30
12/16/02	1,037	18.6	25
1/19/03	699	18.6	19

**TABLE 1B.
EFFLUENT LIMIT VIOLATIONS FOR TERTIARY BUTYL ALCOHOL**

VIOULATION MONTH	EFFLUENT LIMIT* Monthly Average in µg/l	DISCHARGE Monthly Average in µg/l**
December 2002	12.0	13.75

**TABLE 2A.
EFFLUENT LIMIT VIOLATIONS FOR DICHLOROBROMOMETHANE**

VIOULATION DATE	DISCHARGE FLOW Gallons Per Day	EFFLUENT LIMIT* Daily Maximum in µg/l	DISCHARGE (µg/l)
7/27/02	1,144	0.87	4.5
9/8/02	685	0.87	1.5

**TABLE 2B.
EFFLUENT LIMIT VIOLATIONS FOR DICHLOROBROMOMETHANE**

VIOULATION MONTH	EFFLUENT LIMIT* Monthly Average in µg/l	DISCHARGE Monthly Average in µg/l**
July 2002	0.56	4.5
September 2002	0.56	.75

* The receiving water is Big Bear Lake, which is designated for municipal use.

** For samples without reported values (e.g. ND), half of the reporting limit was used.

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Attention: Chuck Miller)	

WAIVER OF HEARING

I agree to waive the right of USA Gasoline Corporation, to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. R8-2003-0093. I have enclosed a check for \$24,000, made payable to the State Water Resources Control Board, as settlement. I understand that I am giving up the right of USA Gasoline Corporation, to be heard and to argue against allegations made by the Executive Officer in this Complaint and against the imposition of, and amount of, the liability proposed.

Date

for USA Gasoline Corporation